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Knox County Board of Supervisors

The Ban Stands.

Center, Nebraska, August 14, 2026

On August 12, 2026, Senior Federal Judge John Gerrard upheld Knox County's ban on industrial wind and solar. While some issues remain, the court also dismissed North Fork Wind's substantive due process, preemption and Dormant Commerce Clause claims. Selected sentences from Judge Gerrard's decision are below.

"North Fork Wind has no claim that it was deprived of a 'fundamental right' enshrined in the Constitution."

"The 2025 ban was similarly enacted because the Planning Commission found that wind farms 'would significantly decrease property values,' 'emit constant noise and shadow flicker which disturbs nearby residents.' 'cause significant view-scape pollution,' 'present [] substantial health and safety issue[s] to crop dusting planes,' etc. If even *one* of those justifications has some rational relationship to the enacted ban, the ordinance does not violate North Fork Wind's due process rights."

"There is a conceivable relationship between aesthetics and safety – a legitimate governmental interest – and a ban on commercial wind farms."

“Even if Knox County officials harbored some animus against North Fork Wind’s development specifically, it is not necessarily irrational or arbitrary to amend its zoning laws in response to an unwanted pending or proposed development.”

“The State of Nebraska has not expressly divested counties of the ability to regulate commercial wind energy, nor has it enacted a comprehensive scheme of legislation such that localities are prevented from legislating in that area.”

“In the absence of some indication that a local law insulates in-state businesses from out-of-state competition *in the same market*, the Dormant Commerce Clause stays dormant.”

“Whether Knox County’s ban on renewable energy is *actually* in the public interest is a question to be challenged in the political process, not a legal one. Similarly, whether it is in North Fork Wind’s best interest to continue to pursue the Knox County development in court rather than selecting a more accommodating site, is a question best left to its stakeholders.”

Knox County Board of Supervisors’ Chairman Jim Sokol, Jr. said, “As a Board we have always worked hard to advance the public interest of Knox County. We also are very committed to being responsive to the will of the voters. Voters consistently told us that they didn’t want industrial wind and solar in our county. We had public meetings and we talk to voters daily. Citizens had very good reasons for being opposed and we acted pursuant to their wishes. Supervisor Marty O’Connor worked exceptionally hard on this case, and the entire Board thanks him.”

“One thing the Board is proud of is that because of our action in stopping a \$1.3 billion construction project, the developer wasn’t able to claim at least \$400 million in federal income tax credits; ‘free’ money as it were. That sum would have been added to our \$40 trillion federal debt. Some people might say that the Knox County Board of Supervisors has done a better job of controlling federal spending than Congress.”

“This decision will go a long way in keeping your electricity rates low. Now that the federal income tax credits are no longer available, new wind and solar projects will be charging NPPD 40% to 120% more. Of course, those much higher prices would be passed onto you.”

“The Board was dissatisfied with our two prior attorneys, and we appreciate Supervisor O’Connor’s effort in finding attorney Dave Begley.”

Supervisor Marty O’Connor said, “This has been a difficult battle. But since I work for you and I knew what you wanted, I thought it was in the best interests of the entire County to ban industrial wind and solar. I know from personal experience that Knox County people are tough. I wasn’t going to lay down without a fight and let the big wind company intimidate us.”

“We all know Knox County is a wonderful place. Keeping Knox County beautiful was a big motivation for me. There was no way I was going to voluntarily let the wind energy developer install in Knox County 155 wind towers with a height of 650 feet; 250 taller than our State Capitol building.”

“Let there be no misunderstanding. Knox County is open for business but with this proposed industrial wind development, voters and the Board were of the clear opinion

that this business was not suitable for Knox County. There was no net benefit to citizens in Knox County and the state of Nebraska. In fact, Knox County would bear a substantial burden for decades if this project is ever completed.”

Special Knox County Attorney David D. Begley said, “I want to thank the Board of Supervisors for hiring me and having trust and confidence in my ability to defend a difficult and complex case with significant constitutional law issues. Supervisor Marty O’Connor searched me out and it was his effort that resulted in my hiring. It has been the greatest honor of my legal career to represent Knox County in this nationally significant case. I will continue to defend this case even if it is appealed. Judge Gerrard’s opinion is solidly reasoned and based on sound Nebraska and federal precedents.”

“I anticipate that many other Nebraska counties will follow the lead of Knox County and ban industrial wind and solar. I’m also confident that many rural counties throughout the nation will also ban expensive and unreliable wind and solar energy. My experience is that rural residents oppose wind and solar energy unless they are getting a check from a developer.”

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